

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON

STEVEN TOJEK

Plaintiff,

vs.

CITY OF BLAINE; JACOB FARRER; JON  
LANDIS; JASON HENTZ,

Defendants.

NO. 2:21-cv-00426-RSM-JRC

COMPLAINT FOR DAMAGES

The Plaintiff, by his attorneys, Van Siclen, Stocks & Firkins, P.S., Inc., complaining of the Defendants, respectfully alleges as follows:

**NATURE OF ACTION**

1. This is a civil action, pursuant to 42 U.S.C § 1983 seeking monetary damages for the wrongful seizure of Plaintiff's vehicle and Plaintiff's wrongful arrest.

**STATEMENT OF JURISDICTION**

2. At all times herein mentioned, the Plaintiff was an individual residing in Whatcom County, Washington.



1           14. Under Washington law at the time, the arresting officer was permitted to  
2 summarily impound a vehicle as long as the driver was arrested for driving under the influence  
3 (DUI).  
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5           15. Under the law at the time, an officer could only impound a vehicle for non-DUI  
6 crimes if the vehicle constituted evidence in a crime or if the vehicle impeded the roadway *and*  
7 no other person was available to move the vehicle.  
8

9           16. Mr. Khan was arrested for reckless driving, informed of his Miranda rights and  
10 placed in the back of the patrol vehicle by Officers Farrer and Hentz. No sobriety tests were  
11 requested or performed, and Mr. Khan indicated that he wished to speak to an attorney before  
12 discussing anything further.  
13

14           17. Officer Farrer informed Mr. Tojek that he was free to go, but that the police  
15 department would be impounding the vehicle.  
16

17           18. At the time Officer Farrer called for a tow truck to impound Mr. Tojek's  
18 vehicle, Mr. Khan had only been arrested for reckless driving. The vehicle was not evidence  
19 of a crime, nor was there no available person who could remove the vehicle. Officer Farrer  
20 therefore had no legal basis to impound Mr. Tojek's car.  
21

22           19. Mr. Tojek insisted that he be given his keys so that he could drive home. Officer  
23 Farrer refused and told him to walk home, despite knowing that it was unsafe to do so.  
24

25           20. Officer Farrer further indicated that he would not release Mr. Tojek's vehicle  
26 unless Mr. Tojek consented to a field sobriety test. Officer Farrer did not have any legal basis  
27 to demand a field sobriety test.  
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1           21. Mr. Tojek then contacted a friend and informed Officers Farrer and Hentz that  
2 someone else would be coming who could drive the vehicle home. Officer Farrer again refused  
3 to give Mr. Tojek the keys and again told Mr. Tojek that the car was being impounded.  
4

5           22. The entire exchange between Mr. Tojek and Officer Farrer spanned less than  
6 two minutes.  
7

8           23. After the exchange with Officer Farrer, Mr. Tojek got into the passenger seat  
9 of his car and remained there until the tow truck arrived.

10           24. Mr. Tojek did not take any physical action, nor did he hinder, delay, or obstruct  
11 any law enforcement officer in the discharge of their official powers or duties. This is  
12 especially so as Officers Farrer and Hentz were doing nothing other than awaiting the arrival  
13 of a tow truck and Washington State Patrol.  
14

15           25. At approximately 3:00 a.m., Officers Farrer and Hentz transferred custody of  
16 Mr. Khan to the Washington State Patrol.  
17

18           26. It was only after Washington State Patrol took custody of Mr. Khan that he was  
19 arrested for DUI. Washington State Patrol took no action with respect to Mr. Tojek or his  
20 vehicle.  
21

22           27. At approximately 3:45 a.m., Mr. Tojek's vehicle was towed from the scene  
23 under the authorization of Officer Landis.  
24

25           28. At some point over the next two months, the Blaine Police Department  
26 contacted the Whatcom County Prosecutor's Office and recommended that Mr. Tojek be  
27 criminally charged.  
28  
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1           29.     The Blaine Police Department knew or should have known that they did not  
2 have probable cause to press for Mr. Tojek to be charged with obstruction, in light of the  
3 Washington Supreme Court's decision in *State v. EJJ*.  
4

5           30.     Upon information and belief, the Blaine Police Department's recommendation  
6 to charge Mr. Tojek with obstruction was in retaliation for incidents that occurred in 2015 and  
7 January 2017.  
8

9           31.     On February 9, 2018, the Whatcom County Prosecutor's Office, based upon  
10 information provided by the Blaine Police Department, charged Mr. Tojek with obstruction of  
11 law enforcement officer.  
12

13           32.     On February 18, 2018, CBP placed Mr. Tojek on non-enforcement duty, a  
14 position that pays significantly less per year than his usual position. Mr. Tojek remained in  
15 that position until he was exonerated in October 2019.  
16

17           33.     A local newspaper reported on the details of the traffic stop and subsequent  
18 criminal charge, painting Mr. Tojek as unfit for public office and damaging his reputation in  
19 the community.  
20

21           34.     Mr. Tojek hired private counsel to defend him against the obstruction charge.  
22 Mr. Tojek necessarily incurred significant costs and attorney fees in doing so.  
23

24           35.     On October 31, 2019, the Whatcom County Superior Court dismissed the  
25 charge against Mr. Tojek for insufficient evidence.  
26

27           36.     In dismissing the charges against Mr. Tojek, the Superior Court judge noted  
28 that "nothing that he did slowed down that investigation [into Khan] whatsoever, absolutely  
29 nothing." The judge noted further that "the only thing Tojek did, although he was abrupt with  
30

1 him, gruff, was to assert his constitutionally protected right” to free speech and to retain his  
2 property, i.e. his vehicle.

3  
4 37. The City of Blaine, through its agents at the Blaine Police Department, ratified  
5 the conduct of the individual officers involved in the traffic stop by approving of the officers’  
6 actions and recommending criminal charges to the Whatcom County Prosecutor’s Office.

7  
8 38. As the result of Defendants’ conduct, Plaintiff has sustained damages including  
9 but not limited to legal fees, impound redemption charges, loss of reputation, mental anguish,  
10 pain and suffering, lost wages, and lost opportunities for career advancement.

11  
12 **FIRST CAUSE OF ACTION**

13 **42 U.S.C. § 1983**

14 39. Plaintiff repeats and realleges each and every allegation contained in paragraphs  
15 1 through 38 as if fully set forth herein.

16  
17 40. The actions taken by Defendants were in violation of clearly established  
18 constitutional protections of which Defendants knew, or with reasonable foresight, should have  
19 known.

20  
21 41. During the course of the case, Defendant City of Blaine acquiesced in the  
22 wrongful actions of the individually named defendants, and sanctioned and/or condoned the  
23 improper conduct as an official practice and policy of these defendants.

24  
25 42. Defendants, acting under color of law, deprived Plaintiff of his constitutional  
26 rights under the 1<sup>st</sup>, 4<sup>th</sup>, 5<sup>th</sup>, and 14<sup>th</sup> Amendments of the U.S. Constitution, in violation of 42  
27 U.S.C. § 1983 and 42 U.S.C. § 1985, including wrongful seizure of Plaintiff’s vehicle,  
28 wrongful arrest, and wrongful prosecution of Plaintiff.  
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1 d. For such other and further relief as this Court may deem just and proper.  
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4 VAN SICLEN STOCKS & FIRKINS  
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6 By: \_\_\_/s/ Stephanie L. Messplay\_\_\_\_\_  
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